

Ms. Phillis Johnson-Ball
Case Control Unit
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423

September 19, 2004

RE: Finance Docket No. 34391

Environmental Assessment, New England Transrail, LLC, d/b/a Wilmington and Woburn Terminal Railroad Co. – Construction, Acquisition, and Operation Exemption – in Wilmington and Woburn, MA

Dear Ms. Johnson-Ball,

This comment is being made in regards to the above referenced Environmental Assessment (EA) conducted by the Surface Transportation Board's (STB) Section of Environmental Analysis (SEA) dated August 4, 2004. The purpose of the EA is to meet requirements of NEPA under the STB's jurisdiction. According to the STB's website and regulations (49 CFR110) the Board "must take a "hard look" at the potential environmental impacts of a proposed action before it makes a final decision to approve or deny the proposal". Considering the SEA preliminary concludes that the Proposed Action would have no significant impacts if the Board imposes and the Applicant implements the environmental mitigation conditions recommended in the EA indicates that the STB has not take a "hard look" as required. I urge the STB to fulfill their absolute regulatory authority and responsibility in reviewing this Major Federal Action (Sec. 1508.18).

ES.1.1 Board's Obligations Under the National Environmental Policy Act

The STB states that the EA identifies and evaluates the potential direct, indirect, and cumulative environmental impacts of the Proposed Action including the potential of the Proposed Action to impact Olin's ongoing remediation activities.

Sec. 1508.7 Cumulative Impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

How can the SEA come to the conclusion of no significant impact? The EA falls seriously short in recognizing and assessing the current cumulative impacts of the Project as defined under this filing. To exacerbate an already flawed conclusion the EA disregards the incremental impacts in the future. The SEA identifies two "obscure" pending actions, the MBTA Connection and a Break Bulk Facility. The EA states, "The details of any such facility, and when the property might be developed to include these structures, are not known at this time". There is no doubt that the project before the STB today will soon change. This segmentation will side step the environmental review. It has become clear that this process is the Proponents "foot in the door" to an even less desirable adverse activity.

Sec. 1508.13 Finding of no significant impact.

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

The SEA fails in the following categories outlined by the NEPA requirements..

1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

The STB fails to address or realize the "Environmental Justice Issues that exist in this area. Evidence of "Environmental Injustice" is further outlined later in this comment. The natural environment can only absorb so much harmful influences before the effects are seen in the human environment. This area has had over a century of abuse and discharges of contamination. The EA only cites the regional benefits and neglects to examine the local adverse effects.

2. The degree to which the proposed action affects public health or safety.

The SEA fails to address the public safety issue regarding traffic, noise, and the effect any accidents/spills will have on the contamination that exists on the Olin site. . Until "no significant health risk" is obtained at the Olin site and full discovery of attained there should be no further adverse impacts to this area to complicate or impede what little progress there has been to make this a safe place for people to work. It is the obligation of all agencies to improve conditions at this site not worsen them.

4. The degree to which the effects on the quality of the human environment are likely to be highly contention

The SEA acknowledges the highly controversial nature of the Olin site. Contention existed prior to this filing and is the cause and effect of the complexities and the impacts the migrated contamination has had on the surrounding communities. The STB appears to have disregarded the concerns of the citizens, state and federal legislators, town officials, the impacts and loss and loss to our community, and the controversy it has provoked.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

Unknown risks; possible effects on the human environment; uncertain; and unique sum up the conditions of the Olin site well. Time and time again both Olin, the DEP, and recently the EPA have stated how unique and uncertain the conditions are at the site and with in the "plume environment". The multiple file cabinets full of scopes of work after scopes of work, the Phase II Assessment that took approximately 10 years to develop, but is still a work in progress due to the discovery of NDMA, and the report from the EPA regarding the evaluation of Chemicals of Concern and the reactions of such with in the Dense Aqueous Plume (DAPL) that has contaminated hundreds of acres of groundwater are all evidence of the complexities of this site. The EA fails to even mention the DAPL which is one of the most prominent features of the Olin site. The fate and transport and "reactionary zones" a.k.a. "Diffused Layer" of this DAPL continues to challenged some of the most astute in their field. We can not afford any more variables until a well thought out plan is in place.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The two known, however, yet to be determined projects, mentioned previously, the MBTA Connection and the Break Bulk Facility, would fall under this category.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

The two known, however yet to be determined projects, the MBTA Connection and the Break Bulk Facility, would once again fall under this category. The Proponent can not break down the Project to avoid "Significance". This is obviously an attempt to do so. If the Proponent know they will come forward in the future, isn't the STB's jurisdiction to require information on the future acts now?

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The SEA seriously fails in evaluating the impact of truck traffic in Wilmington. The SEA does efficiently

address the traffic from entering the RT 38 corridor from the Olin site. However, it does not evaluate the existing conditions at the Woburn St, and Eames St intersection and the West St and 129 intersections. Trucks exiting the site to travel 93 north will use Industrial Way to West Street to 129. Olin describes this route in their original traffic study. Yet those findings are omitted from the SEA report. The Woburn and Eames intersection's is dangerously inadequate to handle any large truck turns. This is recognized in the Olin traffic study from a previous project. The intersection of West St and 129 has a rating of F. There has been a plan to improve this intersection for decades, yet no funding has been designated for this action to date. To add to the magnitude of the existing conditions, the New Boston Street Bridge which will connect to Woburn St. will also be opened in the near future adding to the already congested area of West St and 129. Trailer trucks routinely "take out" the traffic lights at this intersection. Trailer trucks turning right onto Woburn from Eames can not avoid crossing to the opposite side of the road in on coming traffic. This is a significant challenge to over come under current conditions.

The STB is required to address this issue. To indicate that mitigation of \$50,000 is comparable to the impacts to these infrastructures is nonsensical and risks public safety.

Mitigation

The proposed offered mitigation the STB outlines appears to only be of "cookie cutter quality" Many of the requirements are redundant to what would be a required under the Wetland Protection Act and Federal Clean Water Standards. They are no comfort to the citizens of Wilmington and Woburn. In all do respect, I'm sure this mitigation would seem woefully unsatisfactory for members of the STB if this was a decision you would have to live with on a daily bases.

Environmental Justice Issues

It is the STB's regulatory obligation to honestly review the Environmental Justice Issues. The Environmental Justice Laws are quite clear. "Fair treatment" means that no group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies. Below are facts the STB is required to take into consideration when evaluating whether the "group of people" that inhabit this area have Environmental Justice Issues.

- Wilmington has been engaged in a childhood cancer study since 1999. The Wilmington childhood cancer study is focused on finding any common factors, particularly environmental, which may have caused twice the state average in cancer among our children. Woburn's childhood cancer study and outcome linked to the "Civil Action" is well documented.
- The Anderson Commuter Rail Station, named after a little boy who died of leukemia due to the industrial contamination linked to the Industrial-Plex/Wells G and H Superfund sites is just outside the mile radius from the center of the Olin site which has been mapped (Please see photo attachments.), but which is with in one mile of the Olin property line.
- Two of the Industrial-Plex Superfund site landfills are with in a mile of the center point of the Olin site (See map/aerial photo attachments).
- Within a mile radius of the Olin site there are 5 landfills (6 if one of the Industrial-Plex landfills is considered 2.) They are as follows: The Olin Landfill (still not closed out properly under the MCP), The 2 - 3 Industrial-Plex landfills, the Woburn Landfill (a stone's throw from the Olin Landfill), and the Maple Meadow/Spinazola Landfill in Wilmington on the Woburn border.
- The Industrial-Plex landfills, the Woburn landfill, and the Maple Meadow Landfill all received Big Dig materials (contaminated soils) for "capping". I It would be a challenge find another area in the State of Massachusetts that has received as much Big Dig and other so called shaping and grading materials (contaminated soils and construction and demotion) in such a small geographical area of a one mile radius.
- According to the Scorecard website Pollution Locator out of the 56 facilities contributing to cancer hazards in Middlesex County, 12 were located in Wilmington and Woburn - six in Wilmington and six in

Woburn - roughly 1/4 of all the facilities in Middlesex for the combined geographic area of both Wilmington and Woburn. The only other community in Middlesex County that comes close to the same number of facilities is Lowell, the 4th largest city in the entire state. According to the 2000 census, Lowell has a population of just over 105,000 people and a land area of 14.5 square miles. The Town of Wilmington has a population of just under 22,000. Woburn has just under 36,000 people. These numbers are alarming and statistically significant. The combined population of Wilmington and Woburn is more than half of the population of Lowell. Yet our numbers for burden of air quality are worse. As an example of just one contaminant, the attached Pollution Indicator shows toluene equivalents in pounds in relation to the facilities cited in the previous section. The numbers are alarming: 8,926,913 lbs. in Wilmington and Woburn and 8,796,023 in Lowell. Middlesex County is considered by Scorecard one of the dirtiest/worst counties in the country.

- The statistics for cancer hazards are very similar. In this area it has been reported and be quantified that not just individuals have high cancer (mortality) rates, but whole families. There are many residents still on private wells in this area of Wilmington.
- Both Wilmington and Woburn have 2 commuter rail stations. More than any of the other communities in the area. Wilmington has approximately one mile of railroad track for every square mile of our town. Wilmington's historical roots run deep regarding its relationship with the railroad. This has always been viewed as a positive. Unfortunately it is also what appears to have left us vulnerable to endure more than our fair share.
- According to the 2000 census and Wilmington Master Plan, Wilmington employs just as many people as we have residents.
 - Commercial and industrial uses cover 12% of Wilmington. Many of these business operations are located within a mile of the Olin site. The land in Woburn abutting is also Industrial except for the neighborhoods to the south of the Olin border which is primarily residential.
- The Ipswich River, the third most endangered in the country (designated by American Rivers in 2003), has been impacted by this site. Since the Wilmington wells have been shut down and approximately 1.5 million gallons per day is no longer being withdrawn from Maple Meadow Brook Aquifer, the affects of not pumping on the migration of contamination to surface waters and/or in the groundwater is unknown at this time. The Ipswich River serves 14 communities as a drinking water source.

Rest assure, if the STB researched into the adjacent area to this site, they would certainly find those living in close proximity to this industrialized area meet the criteria for low-income in the Middlesex region. From the data it is clear that Wilmington and Woburn are already bearing more than their fair share for the greater good of the general population. How could any Federal agency expect this area to bear more of a burden than it already does? I do not write this comment as a so called NIMBY (Not In My Back Yard). I do not live in this area of town. However, I feel it is my civic and human responsibility to speak up for those who are unfairly singled out for the profit of others. How ironic that the human sacrifice and the contribution to industry and transportation Woburn and Wilmington have made has also leaves them the target for the "dirty" development the more effluent communities do not want. The purpose of the exemption is to evenly distribute the rail road infrastructure and a use that most do not want in their back yard. I actually support the concept behind the exemption process if done transparently and accurately. But to allow the exemption to be used to facilitate a development of such a complex and highly contaminated site because the landowner can not attract a "clean use" due to hazards that exist there is not only wrong but unjust when the people this site effects have sacrificed so much already.

Our government can not and should not sanction any action that penalizes any group of people because the sacrifices they have already made make them even more vulnerable. This segment of the population deserves the same same opportunities to clean air, water, and a healthy environment that so many others enjoy across the nation and to also allow us to better what is already a seriously awful situation. The people of Wilmington and Woburn are feverishly working to improve our living conditions to make this area a better place to raise our children. It is unfair to play Russian Roulette with an already complex and little understood site like this and risk setting us back 30 years. We are only asking to be given the opportunity to improve the quality of our lives, we have sacrificed enough.

Therefore, I ask that you at the very least require a full EIR for this site before any actions taken result in a disastrous situation worse then the one that exists today. I also ask that you, under your regulatory

authority review the Environmental Justice Issue further. Based on all the comments from the town of Wilmington, City of Woburn, the citizens of both communities, the Wilmington town counsel, the DEP, and GeoInsights anything less than this request would appear to be arbitrary and capricious and based in politics which counters the purpose of the STB's authority and purpose.

Thank you for your consideration on this matter.

Sincerely,

Suzanne M. Sullivan
Co-chair Headwaters Stream Team
60 Lawrence Street
Wilmington, Ma 01887



**OLIN/RAILROAD
PROPOSAL**

**MAPLE MEADOW
LANDFILL**

OLIN LANDFILL

WOBURN LANDFILL

INDUSTRIAL PLEX LANDFILLS

[POLLUTION LOCATOR](#) | [Hazardous Air Pollutants](#) | Chemicals Contributing to Estimated Cancer Risk

State: [MASSACHUSETTS](#)

County: ([explain](#))

HAP	Added Cancer Risk (per 1,000,000)	Percent Contribution to Added Cancer Risk	Population in Areas where Single Chemical Cancer Risk > 1 in 10,000	Percent of Area Population where Cancer Risk > 1 in 10,000
DIESEL EMISSIONS	720	81%	1,465,396	100%
BENZENE	49	6%	4,980	0%
CARBON TETRACHLORIDE	36	4%	70	0%
CHROMIUM	25	3%	17,455	1%
POLYCYCLIC ORGANIC MATTER (POM)	16	2%	0	0%
1,3-BUTADIENE	16	2%	70	0%
FORMALDEHYDE	8.7	1%	0	0%
TETRACHLOROETHYLE NE	3.5	0%	0	0%
1,3-DICHLOROPROPEN E (MIXED ISOMERS)	2.3	0%	0	0%
ACETALDEHYDE	2.2	0%	0	0%
1,2-DICHLOROETHANE	1.3	0%	0	0%
TRICHLOROETHYLENE	0.90	0%	0	0%
DICHLOROMETHANE	0.77	0%	0	0%
ETHYLENE OXIDE	0.76	0%	0	0%
1,2-DIBROMOETHANE	0.53	0%	0	0%
NICKEL	0.49	0%	0	0%
CHLOROFORM	0.44	0%	0	0%
ACRYLONITRILE	0.38	0%	0	0%
ARSENIC	0.25	0%	0	0%
POLYCHLORINATED BIPHENYLS	0.21	0%	0	0%

VINYL CHLORIDE	0.14	0%	0	0%
CADMIUM	0.063	0%	0	0%
HEXACHLOROBENZENE	0.046	0%	0	0%
BERYLLIUM	0.045	0%	0	0%
1,1,2,2-TETRACHLOROETHANE	0.034	0%	0	0%
LEAD	0.019	0%	0	0%
HYDRAZINE	0.0041	0%	0	0%
QUINOLINE	0.0035	0%	0	0%
1,2-DICHLOROPROPANE	0.0014	0%	0	0%

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About Your Community

Your Zip Code: 01887 Your Community: MIDDLESEX
County

Scorecard provides the facts about pollution for free.

Please support our community service by registering to
receive regular email updates or donating to
Environmental Defense.

Toxic Chemical Releases from Industrial Facilities

In 2001, this county ranked among the dirtiest/worst 10%
of all counties in the U.S. in terms of air releases of
recognized developmental toxicants

Who is polluting your community?

What are the major pollutants?

Learn more about pollution from industrial facilities in
your community

Lead Hazards

18000 houses in MIDDLESEX County have a high risk of
lead hazards.

Superfund Sites

5 Superfund sites in MIDDLESEX County caused
contamination of drinking water sources

This county is one of 2 counties in the US with 14
Superfund sites.

What Superfund sites are in your community?

Learn more about sources of land contamination in your
community

Smog and Particulates: Does Your Community Meet Clean

Air Act Standards?

In 1999, this county ranked among the dirtiest/worst 10% of all counties in the U.S. in terms of pm-10 emissions

How clean is your air?

Who is polluting your air with nitrogen oxides?

Learn more about criteria air pollutants in your community

Hazardous Air Pollutants

Based on EPA's most current data, this county ranked among the dirtiest/worst 10% of all counties in the US in terms of noncancer hazards from hazardous air pollutants.

1,465,396 people in MIDDLESEX County face a cancer risk more than 100 times the goal set by the Clean Air Act.

92% of the air cancer risk is from mobile sources

7.5% of the air cancer risk is from area sources

0.027% of the air cancer risk is from point sources

What's your risk?

Learn more about hazardous air pollutants in your community

Clean Water Act Status

19 % of surface waters in MIDDLESEX County have beneficial uses which are impaired or threatened.

(Reports may be incomplete)

Some Rivers, Streams and Creeks are impaired by Pathogens and Low Dissolved Oxygen/Organic Enrichment

Some Lakes, Reservoirs and Ponds are impaired by Noxious Aquatic Plants and Nutrients

Some Estuaries, Bays and Coasts are impaired by Pathogens and Low Dissolved Oxygen/Organic Enrichment

The leading sources of water quality problems are Combined Sewer Overflows and Atmospheric Deposition

Learn more about Clean Water Act compliance in your community

Watershed Indicators: How Healthy Are Your Watersheds?

MIDDLESEX County contains a portion of 5 watersheds:
EPA has determined that 1 has more serious water quality
problems
Learn more about watershed health in your community

How does your community compare?
Learn more about animal waste from factory farms in your
community

View the environmental justice report for MIDDLESEX
County (en español).
Explore the maps to see how pollution in your area
compares with nearby communities. Locate polluters, and
see how close they are to your home or workplace.
Compare this community to others. Provide the zipcodes
of friends or destinations, and learn how environmental
conditions in other areas compare with your community.

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